PRA/2021/01064 Ray Johnson Falcon RJ Ltd 21/04/2021 00:00:00	General Permitted Development Order 2015, Schedule 2 Part 3 Class O - Prior Notification Application for change of use from offices (Class B1(a)) to 6 dwellinghouses (Class C3). at THE OLD HOP KILN, 1 LONG GARDEN WALK, FARNHAM

Town :	Farnham CP
Ward :	Farnham Castle Ward
Case Officer:	Philippa Smyth
56 day Expiry Date	15/06/2021
Neighbour Notification Expiry Date	20/05/2021
RECOMMENDATION	That, Prior Approval is REQUIRED and GIVEN

1. Site Description

- **Application site:** located to the east side of Long Garden Walk within Farnham Town Centre.
- **Property Type:** two-storey building.
- **Character:** Site is surrounded by a mix of commercial, residential and office uses.
- **Site Levels:** flat.

2. Proposal

Prior Approval is sought under Part 3, Class O of the GPDO 2015 (as amended) for the change of use of the ground floor of the building from Use Class B1a (office) to Use Class C3 (residential) use to provide 6 dwellings comprising 4 x 2 bed houses and 2 x 1 bed flats.

3. Relevant Planning History

WA/2015/1803	Insertion of 14 windows into existing building (as amended by plans received 22/10/2015 and 02/11/2015 and as amplified by email received 09/11/2015).	Full Permission 18/11/2015
CR/2015/0007	Prior Notification Application - Change of use from Class B1a (office) to Class C3 (residential) use to provide 5 dwellings.	Prior approval Not Required 03/07/2015

4. Relevant Planning Constraints

Developed Area of Farnham / Built Up Area Boundary
Conservation Area
Town Centre Area
Central Shopping Area
Area of High Archaeological Potential
AQMA Buffer Zone
Thames Basin Heaths SPA 5km Buffer Zone
Wealden Heaths I SPA 5km Buffer Zone

5. Development Plan Policies and Proposals

The Town and Country Planning (General Permitted Development Order) 2015 (as amended).

The Town and Country Planning Use Classes Order 1987 (as amended).

6. Consultations and Town/Parish Council Comments

Farnham Town Council	Objects to the application and finds the proposed West Elevations misleading. Clarification must be sought as the drawings, in both existing and proposed, show the roofline to be higher than the adjacent building labelled Scout Hut and approved scheme WA/2020/0995, whereas the actual roofline of the Old Hop Kiln sits much lower. The introduction of extensive glazing in the roof is unacceptable in the Town Centre Conservation Area, not compliant with the Farnham Design Statement and

	Farnham Neighbourhood Plan FNP2 Town Centre Conservation Area and FNP16 Extensions, having a negative impact on its setting and causing light pollution. Additional conservation rooflights with central glazing bars have been proposed to match existing on both the east and west elevations of the roof, these would be appropriate.
County Highway Authority	No objection, subject to conditions.
Council's Environmental Health Officer – Noise	No objection, subject to conditions.
Council's Environmental Health Officer – Contaminated Land	No objection.

7. Representations

None received.

8. Submission in support

The applicant has set out the following, in support of the application:

- Heights of adjacent buildings reflect the buildings as shown on the past application drawings and those of the Harts Yard applications.
- With regards to the roof lights I would like to make the following comments – Policy FNP2 of the Farnham Neighbourhood Plan makes no statement that roof glazing is unacceptable per se, and FNP16 is not relevant as it relates to extensions. The architects have very carefully chosen roof glazing that is entirely acceptable, having a slightly industrial aesthetic appearance appropriate to the building and setting. The size of the glazed areas meet the daylight requirements of the PAN.

9. Determining Issues

- Is the proposed change of use permitted development under Part 3, Class O of the GPDO 2015 (as amended)?

10. Class O

The change of use of a building and any land within its curtilage from a B1(a) (office) use to Class C3 (dwellinghouse) is permitted by Class O of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The following matrix makes an assessment of the proposal against the criteria of Class O:

If the answer to any of the following questions is YES then planning permission is required.	
Was the building not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order— i. on 29th May 2013, or ii. in the case of a building which was in use before that date but was not in use on that date, when it was last in use;	NO
Is the site, or does it form part of, a safety hazard area?	NO
Is the site, or does it form part of, a military explosives storage area?	NO
Is the building a listed building or is it within the curtilage of a listed building?	NO
Is the site, or does it contain, a scheduled monument?	NO

11. Conditions

Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

- transport and highways impacts of the development;
- contamination risks on the site; and
- flooding risks on the site,
- impacts of noise from commercial premises on the intended occupiers of the development,, and
- the provision of adequate natural light in all habitable rooms of the dwellinghouses.

and the provisions of paragraph W (prior approval) apply in relation to that application.

1. *transport and highways impacts of the development;*

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The proposed residential units would replace an existing office building. No parking is to be provided for the units.

The County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway.

The County Highway Authority are satisfied that the site is in a sustainable location with close links to local bus services, Farnham train station and Farnham town centre and welcomes a car-free development. It is considered that the proposal would not have a material impact on highway safety and the County Highway Authority therefore has no highway requirements.

In conclusion, the highway and transportation impacts of thedevelopment would comply with the NPPF and is therefore acceptable.

2. *contamination risks on the site;*

The proposed development is for the change of use of an existing building and no excavation or disturbance of the ground is required.

It is considered that the building is in use as an office and is therefore expected to have utilities and other services already in place.

The Councils Environmental Heath officers have reviewed the application and made the following comment: I have checked our historical records and we have no concerns or comments in relation to Contaminated Land.

It is considered that the development is compliant with the NPPF and there are no likely contamination risks.

3. *flooding risks on the site,*

The development site is located in Flood Zone 1 and would not result in any increased flood risk.

4. *impacts of noise from commercial premises on the intended occupiers of the development;*

The Councils Environmental Health Officers have reviewed this application and have raised no objection, however a number of conditions are recommended.

5. *the provision of adequate natural light in all habitable rooms of the dwellinghouses.*

The submitted plans indicate that, whilst several units would only be served by windows on one elevation, sufficient natural light would be provided to all habitable rooms.

12. Articles 3 and 4

The development would not be permitted development under Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) if:

- It conflicts with the provisions and regulations of the Conservation of Habitats and Species Regulations 2010.

- It is contrary to any condition imposed by any planning permission granted or deemed to be granted under Part III of the Town and Country Planning Act.

- In the case of permission granted in connection with an existing building or use, the building operations involved in the construction of that building or its use are unlawful.

- With the exception of development permitted by Classes A, B, D and E of Part 9 and Class A of Part 18 of the Order, it requires or involves the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons.

- It is development falling within Class A of Part 18 of Schedule 2 of the Order and is authorised by an Act or order subject to the grant of any consent or approval unless and until that consent or approval is obtained, except where the Act was passed or the order made after 1st July 1948.

- It is for the laying or construction of a notifiable pipe-line, except by a public gas transporter in accordance with Class A of Part 15 of Schedule 2.

- Except as provided in Classes B and C of Part 11 of Schedule 2, it requires or involves the demolition of an entire building.

- It is EIA development.

- There is a relevant Article 4 Direction on the Land restricting Permitted Development rights for the particular form of development identified.

The site is located within the 5km of the Thames Basin Heath Special Protection Area (SPA). The proposal would result in an increase in people (permanently) on the site. In order to comply with the Conservation of Habitats and Species Regulations 2010, and to avoid a likely significant effect upon the Thames Basin Heaths SPA and avoid a conflict with Article 3 of the General Permitted Development Order a S106 agreement to secure a financial contribution in line with the Waverley Borough Council Thames Basin Heaths Special Protection Area (TBH SPA) Avoidance Strategy (July 2016) would be required.

Furthermore, in light of the recent European Court of Justice ruling (Case C 323/17 - People Over Wind and Sweetman 2018) relating to the Habitats Directive, mitigation cannot be taken into consideration at screening stage. This judgement affects the way the Council approaches Habitats Regulations Assessments and therefore an Appropriate Assessment will need to be undertaken for the site. As such, the applicant is reminded that it will be necessary to apply separately for approval from the Local Planning Authority to assess the effect of any future development on the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. Failure to receive this approval could mean that the development would be contrary to Article 3 of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order and, as such, would not be permitted to proceed.

The proposed development does not conflict with Articles 3 or 4.

13. Representations

The Local Planning Authority is required to take into account representation made as a result of any notice given to adjoining owners and occupiers and to have regard to teh NPPF 'as if it were a planning application'.

However, the LPA is only is only able to apply the NPPF in strict and limited reference to the issues set out in O.2. Whilst the comments in relation to density and overdevelopment made by the Town Council are noted, the proposal fails to accord with the criteria of Part 2, Class O and therefore it cannot be considered under the Prior Approval process. Notwithstanding this, these are not issues set out in O.2.

14. External alterations

It is noted that the submitted plans show some alterations to the current building. Given that the permitted development provision under Class O is for a change of use, any operational development is likely to require separate express permission. It is noted

that the applicant has already submitted an application for external alterations which had not been registered at the time of writing.

15. Conclusion

In light of the above analysis, the proposed development would comply with Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and would be lawful.

No objection has been raised in relation to transport and highways impacts, contamination risks, noise, natural light provision and flood risk.

Recommendation

That Prior Approval is REQUIRED and GIVEN subject to the following conditions:

1. Condition:

   The plan numbers to which this permission relates are:
   E100A REV A
   E101B REV B
   E102A REV A
   E103
   P100G REV G
   P101G REV G
   P102F REV F
   P104D REV D
   The development shall be carried out in accordance with the approved plans. No material variation from these plans shall take place unless otherwise first agreed in writing with the Local Planning Authority.

   Reason:

   In order that the development hereby permitted shall be fully implemented in complete accordance with the approved plans and to accord with Policies FNP1 and FNP16 of the Farnham Neighbourhood Plan 2013-2032, Retained Policies D1 and D4 of the Local Plan 2002 and Policy TD1 of the Local Plan (Part 1) 2018.

2. Condition:

No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
a) Measures to minimise the noise (including vibration) generated by the construction process to include hours of work and use of noise mitigation barrier(s).
b) the parking of vehicles of site operatives and visitors
c) loading and unloading of plant and materials.
d) measures to control the emission of dust and dirt during construction.
e) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason:

In the interest of the amenities of the area, in accordance with Policies D1 and D4 of the Waverley Borough Local Plan 2002.

3. Condition:

The development hereby approved shall not be first occupied unless and until the facilities for the secure, covered parking of bicycles have been provided within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking facilities shall be permanently maintained and retained to the satisfaction of the Local Planning Authority.

Reason:

In order that the development should not prejudice highway safety nor cause inconvenience to other highway users, in accordance with Policy ST1 of the Local Plan (Part 1) 2018 and in recognition of Section 9, Sustainable Transport' in the NPPF 2019.

<u>Informatives</u>

IF 8 WEEK PERIOD EXCEEDED PLEASE STATE WHY

Case Officer Signed: Philippa Smyth Date: 11 June 2021

Agreed by Team or DC Manager……Chris French……...Date:…14/06/2021……..

Time extension agreement in writing seen by signing off officer:
Yes No ☐ N/A ☐

For Certificate of Lawfulness applications: Use/Operations/Matter

Agreed by Legal services…….Date…….

Agreed by Development Manager or Head of Planning Services
……

This report has been agreed under the delegated authority by the Head of Planning Services.

Decision falls within 1n….(*number reference)* of the Scheme of Delegation
…cf…….. (initialled by Authorising officer)
1. Community Infrastructure Levy (CIL)

From 1 March 2019, if a development is permitted under a General Consent, such as this, you must submit a 'CIL Form 5: Notice of Chargeable Development' to the Council before you commence development. Commencement of development is defined in Regulation 7 of the CIL Regulations 2010 (as amended).